



MAGISTRATE JUDGE MARGARET J. SCHNEIDER
327 SOUTH CHURCH STREET
Courtroom 5300
Chambers 6300
Rockford, IL
(779) 772-8302

**PREPARATION OF FINAL PRETRIAL ORDER FOR
CIVIL CASES BEFORE JUDGE SCHNEIDER**

The parties shall jointly prepare and submit a Proposed Pretrial Order for the Court's consideration that contains the sections and information described below, with each section starting on a new page. The Proposed Pretrial Order must be e-mailed to Proposed_Order_Schneider@ilnd.uscourts.gov in Word format, with two courtesy copies delivered to chambers. The Proposed Pretrial Order must also be filed on the docket by selecting "Other Filings" and then "Other Documents," and choosing the Proposed Pretrial Order event in CM/ECF. The Court will set a date for filing the proposed pretrial order.

Final Pretrial Conference

A final pretrial conference will be held approximately one to two weeks before trial. The purpose of this conference will be to avoid surprises and to simplify the trial. At the conference, the judge will address pending motions in limine, objections to witnesses and exhibits, and contested jury instructions, and will discuss trial procedures and scheduling. Lead trial counsel with authority to discuss all aspects of the case must attend.

Contents of Proposed Pretrial Order

1. *Jurisdiction.* State the jurisdictional basis for each claim. If the parties rely on either diversity jurisdiction or another jurisdictional basis that requires a threshold amount, then state whether the parties agree that the amount in controversy exceeds the amount, and include a concise explanation of how the evidence supports that statement.

2. *Trial Attorneys.* List all of the attorneys trying the case, as well as contact information (business address, telephone number, and e-mail address).

3. *Case Statement.* Provide a concise agreed statement of the case to be read by the Court. In a jury case, this statement will be read to the jury pool during jury selection. The statement must describe the nature of the case, claims, and defenses. This is a neutral description of the case, with just enough information to introduce the case to the jury and to ask potential jurors whether they happen to know anything about the case.

4. *Damages Itemization.* Plaintiff (and counter/cross-claimants, if any) shall itemize damages and other relief sought, and provide a concise explanation of the evidentiary basis for each itemization.

5. *Trial Length / Number of Jurors.* State the estimated number of trial days, including jury selection and deliberations (if it is a jury trial), premised on six-hour trial-testimony days (the six hours already account for lunch and breaks). Propose estimated time limits for (a) opening statements per side; (b) closing arguments per side (including an initial close and rebuttal for the plaintiff); and (c) the total number of hours of witness examination per side. Also, state the number of jurors that the parties recommend (subject to Federal Rule of Civil Procedure 48(a)).

6. *Stipulations and Uncontested Facts.* In numbered paragraphs, state any stipulations and uncontested facts. No later than 10 business days before the Proposed Pretrial Order's due date, the parties must serve on each other proposed stipulations and uncontested facts. No later than 5 business days before the due date, the parties must confer in good faith to arrive at as many stipulations and uncontested facts as possible.

7. *Witness Description Lists.* Each party shall provide a list of the witnesses, including expert witnesses, divided into (a) witnesses who will be called; (b) witnesses whose testimony will be presented by deposition or other prior testimony (indicating whether the presentation will be by reading a transcript or playing a video); and (c) witnesses who might be called or whose testimony might be presented. In a jury case, these lists will be read to the jury pool during voir dire. For each witness, provide a very concise (2 or 3 sentences) description of the witness and the witness's role in the case. For example: "George Washington is Plaintiff's cousin. Washington witnessed the arrest of Plaintiff where Defendants allegedly used excessive force." Or: "John Adams is Defendant's Chief Operating Officer. Adams made promises concerning the timing of payments under the contract." Witnesses who are not on the lists are barred from testifying unless the proponent shows good cause for the failure to disclose the witness. The names of witnesses on the lists will be read to the jury during jury selection to ensure that potential jurors do not

personally know any witnesses.

8. *Exhibits and Exhibit Charts.* The parties must submit an exhibit chart, one each for Plaintiff's exhibits and Defendant's exhibits. The charts must state the following: (a) the exhibit number; (b) the date of the document or exhibit, if applicable; (c) a concise, neutral description of the exhibit; (d) a concise statement of the exhibit's relevance; and (e) whether there is an objection to the exhibit's admission, and if so, a concise explanation of the objection. The chart's format shall be substantially similar to the example below (landscape orientation is encouraged).

No.	Date	Description	Relevance	Objection
1	02/15/06	2005 Performance Review	Proves record of satisfactory job performance	R. 402 relevant; R. 403 confusion. Plaintiff fired in 2011.

In addition to substantive exhibits and Rule 1006 summary exhibits, the chart should also include proposed demonstrative exhibits and any exhibits that are likely to be referred to at trial even though not allowed into evidence. For example, deposition transcripts of witnesses likely to be impeached, or documents likely to be used to refresh memory, should be included on the chart (and assigned an exhibit number and description).

Any substantive exhibit not objected-to shall be deemed admissible into evidence by this Order (note: for the exhibit to be actually entered into the record for the jury's consideration, the exhibit still must be referred-to during trial testimony or otherwise published to the jury). Do not over-designate exhibits, because we will examine exhibits one-by-one during the pretrial conference, and plainly inadmissible exhibits will needlessly consume time. By the same token, the parties must limit the objections to only good-faith objections. Frivolous and boilerplate objections will waste time, because in preparation for the pre-trial conference, the Court will review, as much as possible, the exhibits and the objections. The parties shall stipulate to the authenticity of exhibits whenever possible. If a foundation objection is asserted and the offering party proffers a foundation that the Court believes overcomes the objection, the offering party still must lay the foundation at trial.

As noted above, non-objected-to exhibits will be admissible into evidence by operation of this Order, without any need for further foundation testimony (remember, however, that the exhibit must still be referred-to during trial testimony or otherwise published to the jury for the exhibit to be considered by the jury). But during the trial, for the jury's sake and for the clarity of the record, still move the exhibit into evidence before publishing it to the jury. The Court will ask whether there is any "further" objection, so any pretrial objection is preserved.

No later than one week prior to the final pretrial conference, the parties must submit to chambers 2 sets of exhibit binders containing copies of objected-to exhibits.

If, due to unforeseen circumstances during trial a party wishes to introduce an exhibit not previously listed, notice should be given as soon as possible to the opposing side and to the Court so that any objections can be discussed. Absent abuse of this process, an exhibit will not be deemed inadmissible simply because it was not included on the original exhibit list, provided the exhibit/document was earlier produced to the opposing side during discovery.

9. *Deposition Designations.* If a party proposes to introduce a witness's testimony via a deposition rather than live testimony, then the offering party must serve the page/line designations of the deposition transcript on the opposing party 10 business days in advance of the pretrial order's due date. The opposing party must serve objections to designations (including a concise basis for the objection, like the Exhibit Chart) and also state the opposing party's counter-designations (including counter-designations conditioned on an objection being overruled) 5 business days in advance of the pretrial order's due date. The parties shall generate a joint chart, in page order, that sets forth the designation, objection, counter-designation if objection overruled, any counter-designations, and any objections to the counter-designations (again, with a concise basis for the objection, like the Exhibit Chart).

10. *Motions in Limine.* The Court will set a schedule for the filing of motions *in limine* when it sets dates for the filing of the Pretrial Order. In the Proposed Pretrial Order, each party must provide a list that very briefly summarizes its motions in limine, e.g., "Motion to bar reference to Witness A's drug use." The parties must confer on all motions in limine before filing them. If there is no objection to a motion, but the movant wishes to file a motion memorializing the nonobjection, then the motion must state that there is no objection. To the extent reasonable, file multiple motions in one filing (or a few consolidated filings) to reduce the number of filings.

11. *Voir Dire Questions.* Judge Schneider will always ask routine biographical questions (a typical list is available on her website). Any additional questions sought by the parties must be listed in the Proposed Pretrial Order, divided into (a) agreed-upon questions and (b) proposed questions to which one party objects. A short basis for any objection should accompany the list. Each side is limited to 10 proposed disputed questions, unless a motion is filed before the pretrial conference that explains good cause for proposing more than the limit.

12. *Jury Instructions / Verdict Forms.* For a jury trial, a set of proposed jury instructions are to be included both in the written Pretrial Order and in Word format and emailed to the Court's proposed order inbox. Where there is a Seventh

Circuit pattern jury instruction on point, that instruction should be used absent a good reason for not doing so (Federal Civil Jury Instructions of the Seventh Circuit). Plaintiff's counsel and defendant's counsel must meet and confer to attempt to resolve any disagreements about instructions. The Court adopts the requirement in the District Court's Standing Order Establishing Pretrial Procedure that "[a]greed instructions shall be presented by the parties whenever possible." Further, the Court expects the parties to agree on all instructions other than those about which there is a genuine, material dispute. The parties must set forth all agreed and proposed jury instructions as follows:

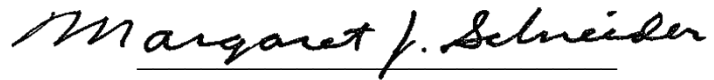
- The proposed final pretrial order must set forth all instructions that the parties propose be given at the close of trial, arranged in the order that the parties proposed they be given.
- Each proposed instruction must be identified at the top of the page by number and must indicate the proponent of the instruction and whether the instruction is agreed or disputed (e.g., "Agreed Plaintiff's Proposed Preliminary Instruction No. __"; "Defendant's Disputed Proposed Final Instruction No. __"). The bottom of each instruction must identify the legal authority supporting that instruction. If an instruction is disputed, the grounds for the objection (and any proposed modification or alternate instruction) must be concisely stated on the page immediately following the disputed instruction; on the next immediate page, the party proposing the instruction may state concisely the reasons supporting the instruction proposed.

The same meet and confer principles apply to proposed verdict forms.

13. *Trial Briefs/Proposed Findings and Conclusions.* Judge Schneider does not require trial briefs in jury trials. Parties who wish to file a trial brief must seek leave of the Court to do so. For a bench trial, the parties shall confer about proposed findings of fact and conclusions of law as to which they agree and submit those to the Court. Each party all shall submit its separate proposed findings of fact and conclusions of law.

14. *Signature.* The Proposed Pretrial Order must be signed (electronically) by counsel for each party.

SO ORDERED.

A handwritten signature in black ink, reading "Margaret J. Schneider". The signature is written in a cursive style with a horizontal line underneath.

Margaret J. Schneider
United States Magistrate Judge

Dated: March 5, 2021